

**THE GEORGE WASHINGTON UNIVERSITY
Washington, DC**

**MINUTES OF THE REGULAR MEETING
OF THE FACULTY SENATE HELD ON
JANUARY 15, 1999, IN THE ELLIOTT ROOM,
UNIVERSITY CLUB, MARVIN CENTER**

The meeting was called to order by President Trachtenberg at 2:25 p.m.

Present: President Trachtenberg, Vice President Lehman, Registrar Selinsky, Parliamentarian Pagel; Deans Futrell, Grossman, Lefton, Mazzuchi, and Phillips; Professors Boswell, Griffith, Harrauld, Harrington, Hoare, Loew, Mergen, Peroni, Robinson, Silber, Simon, Wilmarth, and Wirtz

Absent: Deans Harding, Riegelman, and Young; Professors Agnew, Berkowitz, Captain, Cawley, Gallo, Granger, Gupta, Johnston, Lynch, McAleavey, Nagy, Sodaro, and Yezer

Secretary Selinsky informed the President that a quorum was not present. President Trachtenberg proposed a ten-minute recess for the purpose of assembling a quorum.

Following the ten-minute recess, the Secretary informed the President that a quorum was not obtained. The President moved that the meeting be adjourned for lack of a quorum with a request that the Executive Committee advise the Senate about subsequent meetings. The motion was seconded and passed.

The President adjourned the meeting at 2:38 p.m.

A handwritten signature in cursive script that reads "Brian Selinsky". The signature is written in dark ink and is positioned above the printed name and title.

**Brian Selinsky
Secretary**

THE GEORGE WASHINGTON UNIVERSITY
Washington, DC

The Faculty Senate

January 4, 1999

The Faculty Senate will meet on Friday, January 15, 1999, at 2:10 p.m. in the Elliott Room, University Club, 3rd Floor, Marvin Center.

AGENDA

- 1. Call to order**
- 2. Approval of the minutes of the regular meeting of December 11, 1998, as distributed**
- 3. Resolutions:**

A RESOLUTION ON TENURE BY DEFAULT (98/7); Professor William B. Griffith, Chair, Committee on Professional Ethics and Academic Freedom (Resolution 98/7 attached)

- 4. Introduction of Resolutions**

- 5. General Business:**

(a) Report of the Executive Committee: Professor Lilien F. Robinson, Chair

(b) Interim Reports of Senate Committee Chairs

- 6. Brief Statements (and Questions)**

- 7. Adjournment**



Brian Selinsky
Secretary

A RESOLUTION ON TENURE BY DEFAULT (98/7)

WHEREAS, the Faculty Code provides, in IV A.3.1.c), that a regular active-status faculty member who is tenure-eligible and who is not notified in writing by June 30 preceding the final year of his or her maximum term of appointment that he or she will not be granted tenure, shall acquire tenure at the end of the term; and

WHEREAS, Resolution 97/8 (copy attached) provided that: (i) if a decision on tenure was not made by June 30 of the penultimate year of the maximum term of appointment for a tenure-track faculty member, his or her term of appointment would automatically be extended for an additional year, with a decision on tenure required by June 30 of the final year of the nonextended term, and (ii) if a tenure decision was not made by the latter date, the faculty member would automatically acquire tenure; and

WHEREAS, the University administration has requested that the Faculty Senate reconsider and amend Resolution 97/8 by adding a provision that would permit a limited extension for resolving an administrative nonconcurrence with a faculty recommendation before the automatic extension of the term of appointment of the affected faculty member would take effect; and

WHEREAS, the Faculty Senate is willing to make the limited amendment requested by the University Administration but otherwise desires to re-adopt the provisions of Resolution 97/8 and to reaffirm the important principles of faculty governance and academic freedom set forth therein and in the accompanying explanatory statement dated December 18, 1997 (copy attached);

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

That, in fulfillment of the purposes and principles embodied in Resolution 97/8, the Faculty Code be amended in the following respects:

(1) Article IV, Section A.3.1.c) shall be amended to read as follows (underlined matter added; lined-out matter deleted):

A faculty member of the rank of assistant professor or higher who will not be granted tenure at the end of the final year of his or her maximum term of appointment shall be so notified in writing no later than June 30 preceding the year in which his or her appointment will expire in accordance with Article V, Section B, hereof. ~~Any such faculty member who is not so notified shall acquire tenure at the end of the term.~~ However, if a decision on tenure has not become final by such June 30 deadline due to a failure to resolve an administrative nonconcurrence with a faculty recommendation, the June 30 deadline may be extended for up to 60 days, provided the appropriate administrative officer has given written notice of such extension to the faculty member no later than the original June 30 deadline. A faculty member

Resolution 98/7 (continued)

who does not receive notice of denial of tenure by the date required under the preceding two sentences shall not be granted tenure at the end of his or her pending term of appointment but instead shall be granted a one-year extension of such term. If not notified by June 30 of the final year of the nonextended term of appointment that tenure will not be granted, he or she will acquire tenure at the end of the extended term.

(2) Article V, Section B.3. shall be amended to read as follows (underlined matter added):

Dismissal of a faculty member during a non-tenured appointment, or the nonrenewal of an appointment with less than the required advance notice, shall be preceded by a statement of reasons, and shall be subject to the provisions of Article X of this Code. Notwithstanding the foregoing sentence, notice of termination of the appointment of a faculty member who will not be granted tenure shall be given in accordance with Article IV, Section A.3.1.c) of this Code, and no delay in giving such notice shall be permitted except as expressly provided therein.

Committee on Professional Ethics and Academic Freedom
December 17, 1998

A RESOLUTION ON TENURE BY DEFAULT (97/8)

WHEREAS, the Faculty Code (IV.C.1) provides that "[t]enure shall be dependent upon professional competence . . . ," yet

WHEREAS, the Faculty Code (IV.A.3.1 c) also provides that tenure shall be automatically awarded if the University fails to notify a tenure-track faculty member in the penultimate year of the maximum term of appointment that tenure will not be granted; and

WHEREAS, it remains important that the time limits on tenure-track service not be indefinitely extended by administrative inaction; and

WHEREAS, it is also important that tenure decisions by the University continue to "normally follow faculty recommendations. Departures from this standard shall be limited to those cases involving compelling reasons . . . [with statement of] the compelling reasons therefore" (Procedures for the Implementation of the Faculty Code B 3, Faculty Code, p. 19), and that tenure accordingly not be denied by mere administrative inaction; NOW, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the Faculty Code, IV.A.3.1.c) be amended to read as follows: (underlined matter added; lined-out matter deleted)

A faculty member of the rank of assistant professor or higher who will not be granted tenure at the end of the final year of his or her maximum term of appointment shall be so notified in writing no later than June 30 preceding the year in which his or her appointment will expire in accordance with Article V, Section B, hereof. Any such faculty member who is not so notified shall ~~acquire tenure at the end of the term. not be granted tenure at the end of that term, but shall~~ be granted a one year extension of his or her appointment. If not notified by June 30 of the final year of the nonextended term of appointment that tenure will not be granted, he or she will acquire tenure at the end of the extended term.

Professional Ethics and Academic Freedom Committee
January 13, 1998

Adopted, January 16, 1998, by the Faculty Senate

EXPLANATORY STATEMENT RE TENURE BY DEFAULT

The usual procedure for granting or denying tenure at the University begins with an investigation and a recommendation by the faculty of the affected school or department, i.e., those with the most particularized expertise in the subject area. The Faculty Code provides that this recommendation will normally be followed by the Administration.¹ On occasion, however, the Administration does not concur with faculty recommendations. This is authorized, providing it gives "compelling reasons" for its nonconcurrence.²

In order for the unsuccessful applicant for tenure to have sufficient time to find another job, the Code requires that at least one year's notice be given that tenure will not be granted.³ If this notice is not given in a timely manner, tenure is automatically awarded.⁴ This has been termed tenure by default. It has not been common, but two such situations arguably occurred in recent years following faculty recommendations of tenure and extended administrative review prior to ultimate rejection of the recommendations.

Neither the faculty nor the administration believes that tenure by default is desirable, even when it is due to failure to obtain final administrative action in a timely way on a faculty recommendation that the candidate be given tenure. At the same time, simply eliminating the possibility of tenure by default would make it possible to convert the limited administrative authority of nonconcurrence upon showing compelling reasons into an administrative power to veto faculty recommendations providing the administration took no action and requiring disclosure of no reasons, whatsoever.

The resolution proposes a compromise, designed to address the legitimate concerns regarding tenure by default and at the same time preserving the faculty role under the Code of having the presumptive power to determine its membership. It provides that in situations of delay that presently would result in tenure by default, instead the candidate be given a one year extension of his or her contract. Only if there is inaction for an additional year could there be tenure by default. We anticipate that this would never occur, but its possibility is needed to prevent veto by inaction.

¹Faculty Code (FC) p. 19-20.

²FC p. 20.

³In this respect the Code follows the 1940 Statement of Principles on Academic Freedom and Tenure, developed by the American Association of University Professors and the Association of American Colleges.

⁴FC p. 6.

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